

## **Background**

State elected official members of most Washington State Retirement Systems and plans must separate from service in order to retire and begin receiving their retirement benefits, regardless of age. TRS 1 is the exception in permitting state elected officials who are TRS 1 members, if otherwise eligible, to begin receiving their retirement benefit while serving in state elective office. The LEOFF 1 plan also allows retired members to work for any non-LEOFF employer without a reduction of their benefits.

Membership and benefits for state elected officials vary by plan, and also vary from the regular members of those plans. Some plans have rules for local government elected officials and officials appointed directly by the Governor that are distinct from the state elected official rules. Regardless of the various membership requirements, all Washington's defined benefit plans require members to be separated for one month before they may receive their retirement benefit.

Earlier legislation was proposed that would allow members holding state elective office the option, at the beginning of each term of office, to continue active membership or to retire and begin receiving their retirement allowance.

## **Committee Activity**

### **Presentation:**

December 16, 2003 - Full Committee Meeting

## **Recommendation to Legislature**

None

## **Staff Contact**

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# Select Committee on Pension Policy

## Opt In/Opt Out

*(December 9, 2003)*

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<b>Issue</b>	Allow members holding state elective office the option, at the beginning of each term of office, to continue active membership or to retire and begin receiving their retirement allowance.
<b>Staff</b>	Robert Wm. Baker (360) 586-9237
<b>Members Impacted</b>	All members of PERS, SERS, TRS 2/3, or LEOFF 2 who hold state elective office. There are currently 139 state elective and appointed officials who are plan members without other public employment.
<b>Current Situation</b>	State elected official members of most Washington State Retirement Systems and plans must separate from service in order to retire and begin receiving their retirement benefits, regardless of age. TRS 1 is the exception in permitting state elected officials who are TRS 1 members, if otherwise eligible, to begin receiving their retirement benefit while serving in state elective office. The LEOFF 1 plan also allows retired members to work for any non-LEOFF employer without a reduction of their benefits.
<b>History</b>	Companion bills HB 1201 and SB 5095 were introduced in the 2003 session. This legislation would have allowed PERS, SERS, TRS2/3, or LEOFF 2 members holding state elective office the option, at the beginning of each term of office, of continuing active membership or retiring and beginning their retirement allowance. SB 5095 passed the Senate. HB 1201 did not receive a hearing.

### **Policy Analysis**

Membership and benefits for state elected officials vary by plan, and also vary from the regular members of those plans. Some plans have rules for local government elected officials and officials appointed directly by the Governor that are distinct from the state elected official rules.

Elected officials may, during their first term in office, apply for membership in PERS 2/3 or continue membership in their current plan. Members may generally continue to receive retirement benefits, or return to active membership from retirement upon entering office.

TRS 2/3 members are an exception to the general rule. They may take a leave of absence without pay from TRS 2/3 to serve in state elected office and be a member of no plan, or accumulate PERS 2/3 service during their term(s) of office. Upon return to active TRS service, a member that chose a leave of absence may purchase up to two years of TRS unpaid leave of absence service.

With the exception of PERS 2/3, an individual must establish membership in the plan prior to entering an elected or appointed state office. PERS 2/3 is among those with different rules for state elected officials and Governor-appointed officials.

Regardless of the various membership requirements, all defined benefit plans require members to be separated for one month before they may receive their retirement benefit.

### **Administrative Impact (from DRS)**

Input requested.

### **Executive Committee Recommendation**

Refer the issue to the full committee for its consideration.

**Bill Draft**

See attachment.

**Fiscal Note (Draft)**

See attachment.

# FISCAL NOTE – DRAFT

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/09/03	Z-0939.1/04

## SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2, the Public Employees Retirement System, the Teachers' Retirement System Plan 2 and Plan 3, and the School Employees' Retirement System by permitting members who are state elected officials to continue or resume membership, and if otherwise eligible, retire and begin their retirement allowance at the beginning of each term of office. A state elected official member who chooses to end membership at the beginning of a term of office, and begin their retirement allowance, shall neither make contributions nor earn service credit for the duration of that term.

Effective Date: 90 days after session.

## CURRENT SITUATION:

State elected official members of most Washington State Retirement Systems and plans must separate from service in order to retire and begin receipt of their retirement benefits regardless of age. While the rules for state elected officials vary by system and plan, the Teachers' Retirement System Plan 1 is a notable distinction in permitting state elected officials, if otherwise eligible, to begin their retirement benefit while serving in state elective office.

## FISCAL IMPACT:

The cost of this bill is insufficient to affect contribution rates.

1       AN ACT Relating to allowing a member holding state elective office  
2 the option during each term of office of membership or retirement and  
3 beginning their retirement allowance in the law enforcement officers'  
4 and fire fighters' retirement system, the teachers' retirement system,  
5 the school employees' retirement system, and the public employees'  
6 retirement system; and amending RCW 41.26.030, 41.32.010, 41.32.263,  
7 41.35.030, and 41.40.023.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9       **Sec. 1.** RCW 41.26.030 and 2003 c 388 s 2 are each amended to read  
10 as follows:

11       As used in this chapter, unless a different meaning is plainly  
12 required by the context:

13       (1) "Retirement system" means the "Washington law enforcement  
14 officers' and fire fighters' retirement system" provided herein.

15       (2)(a) "Employer" for plan 1 members, means the legislative  
16 authority of any city, town, county, or district or the elected  
17 officials of any municipal corporation that employs any law enforcement  
18 officer and/or fire fighter, any authorized association of such  
19 municipalities, and, except for the purposes of RCW 41.26.150, any

1 labor guild, association, or organization, which represents the fire  
2 fighters or law enforcement officers of at least seven cities of over  
3 20,000 population and the membership of each local lodge or division of  
4 which is composed of at least sixty percent law enforcement officers or  
5 fire fighters as defined in this chapter.

6 (b) "Employer" for plan 2 members, means the following entities to  
7 the extent that the entity employs any law enforcement officer and/or  
8 fire fighter:

9 (i) The legislative authority of any city, town, county, or  
10 district;

11 (ii) The elected officials of any municipal corporation;

12 (iii) The governing body of any other general authority law  
13 enforcement agency; or

14 (iv) A four-year institution of higher education having a fully  
15 operational fire department as of January 1, 1996.

16 (3) "Law enforcement officer" beginning January 1, 1994, means any  
17 person who is commissioned and employed by an employer on a full time,  
18 fully compensated basis to enforce the criminal laws of the state of  
19 Washington generally, with the following qualifications:

20 (a) No person who is serving in a position that is basically  
21 clerical or secretarial in nature, and who is not commissioned shall be  
22 considered a law enforcement officer;

23 (b) Only those deputy sheriffs, including those serving under a  
24 different title pursuant to county charter, who have successfully  
25 completed a civil service examination for deputy sheriff or the  
26 equivalent position, where a different title is used, and those persons  
27 serving in unclassified positions authorized by RCW 41.14.070 except a  
28 private secretary will be considered law enforcement officers;

29 (c) Only such full time commissioned law enforcement personnel as  
30 have been appointed to offices, positions, or ranks in the police  
31 department which have been specifically created or otherwise expressly  
32 provided for and designated by city charter provision or by ordinance  
33 enacted by the legislative body of the city shall be considered city  
34 police officers;

35 (d) The term "law enforcement officer" also includes the executive  
36 secretary of a labor guild, association or organization (which is an  
37 employer under RCW 41.26.030(2)) if that individual has five years

1 previous membership in the retirement system established in chapter  
2 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to  
3 plan 2 members; and

4 (e) The term "law enforcement officer" also includes a person  
5 employed on or after January 1, 1993, as a public safety officer or  
6 director of public safety, so long as the job duties substantially  
7 involve only either police or fire duties, or both, and no other duties  
8 in a city or town with a population of less than ten thousand. The  
9 provisions of this subsection (3)(e) shall not apply to any public  
10 safety officer or director of public safety who is receiving a  
11 retirement allowance under this chapter as of May 12, 1993.

12 (4) "Fire fighter" means:

13 (a) Any person who is serving on a full time, fully compensated  
14 basis as a member of a fire department of an employer and who is  
15 serving in a position which requires passing a civil service  
16 examination for fire fighter, and who is actively employed as such;

17 (b) Anyone who is actively employed as a full time fire fighter  
18 where the fire department does not have a civil service examination;

19 (c) Supervisory fire fighter personnel;

20 (d) Any full time executive secretary of an association of fire  
21 protection districts authorized under RCW 52.12.031. The provisions of  
22 this subsection (4)(d) shall not apply to plan 2 members;

23 (e) The executive secretary of a labor guild, association or  
24 organization (which is an employer under RCW 41.26.030(2) as now or  
25 hereafter amended), if such individual has five years previous  
26 membership in a retirement system established in chapter 41.16 or 41.18  
27 RCW. The provisions of this subsection (4)(e) shall not apply to plan  
28 2 members;

29 (f) Any person who is serving on a full time, fully compensated  
30 basis for an employer, as a fire dispatcher, in a department in which,  
31 on March 1, 1970, a dispatcher was required to have passed a civil  
32 service examination for fire fighter; and

33 (g) Any person who on March 1, 1970, was employed on a full time,  
34 fully compensated basis by an employer, and who on May 21, 1971, was  
35 making retirement contributions under the provisions of chapter 41.16  
36 or 41.18 RCW.

37 (5) "Department" means the department of retirement systems created  
38 in chapter 41.50 RCW.



1 (6) "Surviving spouse" means the surviving widow or widower of a  
2 member. "Surviving spouse" shall not include the divorced spouse of a  
3 member except as provided in RCW 41.26.162.

4 (7)(a) "Child" or "children" means an unmarried person who is under  
5 the age of eighteen or mentally or physically handicapped as determined  
6 by the department, except a handicapped person in the full time care of  
7 a state institution, who is:

8 (i) A natural born child;

9 (ii) A stepchild where that relationship was in existence prior to  
10 the date benefits are payable under this chapter;

11 (iii) A posthumous child;

12 (iv) A child legally adopted or made a legal ward of a member prior  
13 to the date benefits are payable under this chapter; or

14 (v) An illegitimate child legitimized prior to the date any  
15 benefits are payable under this chapter.

16 (b) A person shall also be deemed to be a child up to and including  
17 the age of twenty years and eleven months while attending any high  
18 school, college, or vocational or other educational institution  
19 accredited, licensed, or approved by the state, in which it is located,  
20 including the summer vacation months and all other normal and regular  
21 vacation periods at the particular educational institution after which  
22 the child returns to school.

23 (8) "Member" means any fire fighter, law enforcement officer, or  
24 other person as would apply under subsections (3) or (4) of this  
25 section whose membership is transferred to the Washington law  
26 enforcement officers' and fire fighters' retirement system on or after  
27 March 1, 1970, and every law enforcement officer and fire fighter who  
28 is employed in that capacity on or after such date.

29 (9) "Retirement fund" means the "Washington law enforcement  
30 officers' and fire fighters' retirement system fund" as provided for  
31 herein.

32 (10) "Employee" means any law enforcement officer or fire fighter  
33 as defined in subsections (3) and (4) of this section.

34 (11)(a) "Beneficiary" for plan 1 members, means any person in  
35 receipt of a retirement allowance, disability allowance, death benefit,  
36 or any other benefit described herein.

37 (b) "Beneficiary" for plan 2 members, means any person in receipt

1 of a retirement allowance or other benefit provided by this chapter  
2 resulting from service rendered to an employer by another person.

3 (12)(a) "Final average salary" for plan 1 members, means (i) for a  
4 member holding the same position or rank for a minimum of twelve months  
5 preceding the date of retirement, the basic salary attached to such  
6 same position or rank at time of retirement; (ii) for any other member,  
7 including a civil service member who has not served a minimum of twelve  
8 months in the same position or rank preceding the date of retirement,  
9 the average of the greatest basic salaries payable to such member  
10 during any consecutive twenty-four month period within such member's  
11 last ten years of service for which service credit is allowed, computed  
12 by dividing the total basic salaries payable to such member during the  
13 selected twenty-four month period by twenty-four; (iii) in the case of  
14 disability of any member, the basic salary payable to such member at  
15 the time of disability retirement; (iv) in the case of a member who  
16 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to  
17 such member at the time of vesting.

18 (b) "Final average salary" for plan 2 members, means the monthly  
19 average of the member's basic salary for the highest consecutive sixty  
20 service credit months of service prior to such member's retirement,  
21 termination, or death. Periods constituting authorized unpaid leaves  
22 of absence may not be used in the calculation of final average salary.

23 (13)(a) "Basic salary" for plan 1 members, means the basic monthly  
24 rate of salary or wages, including longevity pay but not including  
25 overtime earnings or special salary or wages, upon which pension or  
26 retirement benefits will be computed and upon which employer  
27 contributions and salary deductions will be based.

28 (b) "Basic salary" for plan 2 members, means salaries or wages  
29 earned by a member during a payroll period for personal services,  
30 including overtime payments, and shall include wages and salaries  
31 deferred under provisions established pursuant to sections 403(b),  
32 414(h), and 457 of the United States Internal Revenue Code, but shall  
33 exclude lump sum payments for deferred annual sick leave, unused  
34 accumulated vacation, unused accumulated annual leave, or any form of  
35 severance pay. In any year in which a member serves in the legislature  
36 the member shall have the option of having such member's basic salary  
37 be the greater of:

1 (i) The basic salary the member would have received had such member  
2 not served in the legislature; or

3 (ii) Such member's actual basic salary received for nonlegislative  
4 public employment and legislative service combined. Any additional  
5 contributions to the retirement system required because basic salary  
6 under (b)(i) of this subsection is greater than basic salary under  
7 (b)(ii) of this subsection shall be paid by the member for both member  
8 and employer contributions.

9 (14)(a) "Service" for plan 1 members, means all periods of  
10 employment for an employer as a fire fighter or law enforcement  
11 officer, for which compensation is paid, together with periods of  
12 suspension not exceeding thirty days in duration. For the purposes of  
13 this chapter service shall also include service in the armed forces of  
14 the United States as provided in RCW 41.26.190. Credit shall be  
15 allowed for all service credit months of service rendered by a member  
16 from and after the member's initial commencement of employment as a  
17 fire fighter or law enforcement officer, during which the member worked  
18 for seventy or more hours, or was on disability leave or disability  
19 retirement. Only service credit months of service shall be counted in  
20 the computation of any retirement allowance or other benefit provided  
21 for in this chapter.

22 (i) For members retiring after May 21, 1971 who were employed under  
23 the coverage of a prior pension act before March 1, 1970, "service"  
24 shall also include (A) such military service not exceeding five years  
25 as was creditable to the member as of March 1, 1970, under the member's  
26 particular prior pension act, and (B) such other periods of service as  
27 were then creditable to a particular member under the provisions of RCW  
28 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit  
29 be allowed for any service rendered prior to March 1, 1970, where the  
30 member at the time of rendition of such service was employed in a  
31 position covered by a prior pension act, unless such service, at the  
32 time credit is claimed therefor, is also creditable under the  
33 provisions of such prior act.

34 (ii) A member who is employed by two employers at the same time  
35 shall only be credited with service to one such employer for any month  
36 during which the member rendered such dual service.

37 (b) "Service" for plan 2 members, means periods of employment by a  
38 member for one or more employers for which basic salary is earned for

1 ninety or more hours per calendar month which shall constitute a  
2 service credit month. Periods of employment by a member for one or  
3 more employers for which basic salary is earned for at least seventy  
4 hours but less than ninety hours per calendar month shall constitute  
5 one-half service credit month. Periods of employment by a member for  
6 one or more employers for which basic salary is earned for less than  
7 seventy hours shall constitute a one-quarter service credit month.

8 Members of the retirement system who are elected or appointed to a  
9 state elective position may elect during a ninety-day period at the  
10 beginning of each term of office to continue ~~((to be members of this~~  
11 ~~retirement system))~~, resume, or to end membership in the retirement  
12 system and if otherwise eligible begin their retirement allowance. A  
13 state elected official who chooses to end membership at the beginning  
14 of a term of office and begin their retirement allowance shall neither  
15 make contributions nor earn service credit for the duration of that  
16 term.

17 Service credit years of service shall be determined by dividing the  
18 total number of service credit months of service by twelve. Any  
19 fraction of a service credit year of service as so determined shall be  
20 taken into account in the computation of such retirement allowance or  
21 benefits.

22 If a member receives basic salary from two or more employers during  
23 any calendar month, the individual shall receive one service credit  
24 month's service credit during any calendar month in which multiple  
25 service for ninety or more hours is rendered; or one-half service  
26 credit month's service credit during any calendar month in which  
27 multiple service for at least seventy hours but less than ninety hours  
28 is rendered; or one-quarter service credit month during any calendar  
29 month in which multiple service for less than seventy hours is  
30 rendered.

31 (15) "Accumulated contributions" means the employee's contributions  
32 made by a member, including any amount paid under RCW 41.50.165(2),  
33 plus accrued interest credited thereon.

34 (16) "Actuarial reserve" means a method of financing a pension or  
35 retirement plan wherein reserves are accumulated as the liabilities for  
36 benefit payments are incurred in order that sufficient funds will be  
37 available on the date of retirement of each member to pay the member's  
38 future benefits during the period of retirement.

1 (17) "Actuarial valuation" means a mathematical determination of  
2 the financial condition of a retirement plan. It includes the  
3 computation of the present monetary value of benefits payable to  
4 present members, and the present monetary value of future employer and  
5 employee contributions, giving effect to mortality among active and  
6 retired members and also to the rates of disability, retirement,  
7 withdrawal from service, salary and interest earned on investments.

8 (18) "Disability board" for plan 1 members means either the county  
9 disability board or the city disability board established in RCW  
10 41.26.110.

11 (19) "Disability leave" means the period of six months or any  
12 portion thereof during which a member is on leave at an allowance equal  
13 to the member's full salary prior to the commencement of disability  
14 retirement. The definition contained in this subsection shall apply  
15 only to plan 1 members.

16 (20) "Disability retirement" for plan 1 members, means the period  
17 following termination of a member's disability leave, during which the  
18 member is in receipt of a disability retirement allowance.

19 (21) "Position" means the employment held at any particular time,  
20 which may or may not be the same as civil service rank.

21 (22) "Medical services" for plan 1 members, shall include the  
22 following as minimum services to be provided. Reasonable charges for  
23 these services shall be paid in accordance with RCW 41.26.150.

24 (a) Hospital expenses: These are the charges made by a hospital,  
25 in its own behalf, for

26 (i) Board and room not to exceed semiprivate room rate unless  
27 private room is required by the attending physician due to the  
28 condition of the patient.

29 (ii) Necessary hospital services, other than board and room,  
30 furnished by the hospital.

31 (b) Other medical expenses: The following charges are considered  
32 "other medical expenses", provided that they have not been considered  
33 as "hospital expenses".

34 (i) The fees of the following:

35 (A) A physician or surgeon licensed under the provisions of chapter  
36 18.71 RCW;

37 (B) An osteopathic physician and surgeon licensed under the  
38 provisions of chapter 18.57 RCW;

1 (C) A chiropractor licensed under the provisions of chapter 18.25  
2 RCW.

3 (ii) The charges of a registered graduate nurse other than a nurse  
4 who ordinarily resides in the member's home, or is a member of the  
5 family of either the member or the member's spouse.

6 (iii) The charges for the following medical services and supplies:

7 (A) Drugs and medicines upon a physician's prescription;

8 (B) Diagnostic x-ray and laboratory examinations;

9 (C) X-ray, radium, and radioactive isotopes therapy;

10 (D) Anesthesia and oxygen;

11 (E) Rental of iron lung and other durable medical and surgical  
12 equipment;

13 (F) Artificial limbs and eyes, and casts, splints, and trusses;

14 (G) Professional ambulance service when used to transport the  
15 member to or from a hospital when injured by an accident or stricken by  
16 a disease;

17 (H) Dental charges incurred by a member who sustains an accidental  
18 injury to his or her teeth and who commences treatment by a legally  
19 licensed dentist within ninety days after the accident;

20 (I) Nursing home confinement or hospital extended care facility;

21 (J) Physical therapy by a registered physical therapist;

22 (K) Blood transfusions, including the cost of blood and blood  
23 plasma not replaced by voluntary donors;

24 (L) An optometrist licensed under the provisions of chapter 18.53  
25 RCW.

26 (23) "Regular interest" means such rate as the director may  
27 determine.

28 (24) "Retiree" for persons who establish membership in the  
29 retirement system on or after October 1, 1977, means any member in  
30 receipt of a retirement allowance or other benefit provided by this  
31 chapter resulting from service rendered to an employer by such member.

32 (25) "Director" means the director of the department.

33 (26) "State actuary" or "actuary" means the person appointed  
34 pursuant to RCW 44.44.010(2).

35 (27) "State elective position" means any position held by any  
36 person elected or appointed to statewide office or elected or appointed  
37 as a member of the legislature.

1 (28) "Plan 1" means the law enforcement officers' and fire  
2 fighters' retirement system, plan 1 providing the benefits and funding  
3 provisions covering persons who first became members of the system  
4 prior to October 1, 1977.

5 (29) "Plan 2" means the law enforcement officers' and fire  
6 fighters' retirement system, plan 2 providing the benefits and funding  
7 provisions covering persons who first became members of the system on  
8 and after October 1, 1977.

9 (30) "Service credit year" means an accumulation of months of  
10 service credit which is equal to one when divided by twelve.

11 (31) "Service credit month" means a full service credit month or an  
12 accumulation of partial service credit months that are equal to one.

13 (32) "General authority law enforcement agency" means any agency,  
14 department, or division of a municipal corporation, political  
15 subdivision, or other unit of local government of this state, and any  
16 agency, department, or division of state government, having as its  
17 primary function the detection and apprehension of persons committing  
18 infractions or violating the traffic or criminal laws in general, but  
19 not including the Washington state patrol. Such an agency, department,  
20 or division is distinguished from a limited authority law enforcement  
21 agency having as one of its functions the apprehension or detection of  
22 persons committing infractions or violating the traffic or criminal  
23 laws relating to limited subject areas, including but not limited to,  
24 the state departments of natural resources and social and health  
25 services, the state gambling commission, the state lottery commission,  
26 the state parks and recreation commission, the state utilities and  
27 transportation commission, the state liquor control board, and the  
28 state department of corrections.

29 **Sec. 2.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read  
30 as follows:

31 As used in this chapter, unless a different meaning is plainly  
32 required by the context:

33 (1)(a) "Accumulated contributions" for plan 1 members, means the  
34 sum of all regular annuity contributions and, except for the purpose of  
35 withdrawal at the time of retirement, any amount paid under RCW  
36 41.50.165(2) with regular interest thereon.

1 (b) "Accumulated contributions" for plan 2 members, means the sum  
2 of all contributions standing to the credit of a member in the member's  
3 individual account, including any amount paid under RCW 41.50.165(2),  
4 together with the regular interest thereon.

5 (2) "Actuarial equivalent" means a benefit of equal value when  
6 computed upon the basis of such mortality tables and regulations as  
7 shall be adopted by the director and regular interest.

8 (3) "Annuity" means the moneys payable per year during life by  
9 reason of accumulated contributions of a member.

10 (4) "Member reserve" means the fund in which all of the accumulated  
11 contributions of members are held.

12 (5)(a) "Beneficiary" for plan 1 members, means any person in  
13 receipt of a retirement allowance or other benefit provided by this  
14 chapter.

15 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
16 in receipt of a retirement allowance or other benefit provided by this  
17 chapter resulting from service rendered to an employer by another  
18 person.

19 (6) "Contract" means any agreement for service and compensation  
20 between a member and an employer.

21 (7) "Creditable service" means membership service plus prior  
22 service for which credit is allowable. This subsection shall apply  
23 only to plan 1 members.

24 (8) "Dependent" means receiving one-half or more of support from a  
25 member.

26 (9) "Disability allowance" means monthly payments during  
27 disability. This subsection shall apply only to plan 1 members.

28 (10)(a) "Earnable compensation" for plan 1 members, means:

29 (i) All salaries and wages paid by an employer to an employee  
30 member of the retirement system for personal services rendered during  
31 a fiscal year. In all cases where compensation includes maintenance  
32 the employer shall fix the value of that part of the compensation not  
33 paid in money.

34 (ii) For an employee member of the retirement system teaching in an  
35 extended school year program, two consecutive extended school years, as  
36 defined by the employer school district, may be used as the annual  
37 period for determining earnable compensation in lieu of the two fiscal  
38 years.



1 (iii) "Earnable compensation" for plan 1 members also includes the  
2 following actual or imputed payments, which are not paid for personal  
3 services:

4 (A) Retroactive payments to an individual by an employer on  
5 reinstatement of the employee in a position, or payments by an employer  
6 to an individual in lieu of reinstatement in a position which are  
7 awarded or granted as the equivalent of the salary or wages which the  
8 individual would have earned during a payroll period shall be  
9 considered earnable compensation and the individual shall receive the  
10 equivalent service credit.

11 (B) If a leave of absence, without pay, is taken by a member for  
12 the purpose of serving as a member of the state legislature, and such  
13 member has served in the legislature five or more years, the salary  
14 which would have been received for the position from which the leave of  
15 absence was taken shall be considered as compensation earnable if the  
16 employee's contribution thereon is paid by the employee. In addition,  
17 where a member has been a member of the state legislature for five or  
18 more years, earnable compensation for the member's two highest  
19 compensated consecutive years of service shall include a sum not to  
20 exceed thirty-six hundred dollars for each of such two consecutive  
21 years, regardless of whether or not legislative service was rendered  
22 during those two years.

23 (iv) For members employed less than full time under written  
24 contract with a school district, or community college district, in an  
25 instructional position, for which the member receives service credit of  
26 less than one year in all of the years used to determine the earnable  
27 compensation used for computing benefits due under RCW 41.32.497,  
28 41.32.498, and 41.32.520, the member may elect to have earnable  
29 compensation defined as provided in RCW 41.32.345. For the purposes of  
30 this subsection, the term "instructional position" means a position in  
31 which more than seventy-five percent of the member's time is spent as  
32 a classroom instructor (including office hours), a librarian, or a  
33 counselor. Earnable compensation shall be so defined only for the  
34 purpose of the calculation of retirement benefits and only as necessary  
35 to insure that members who receive fractional service credit under RCW  
36 41.32.270 receive benefits proportional to those received by members  
37 who have received full-time service credit.

38 (v) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

1       (13) "Former state fund" means the state retirement fund in  
2 operation for teachers under chapter 187, Laws of 1923, as amended.

3       (14) "Local fund" means any of the local retirement funds for  
4 teachers operated in any school district in accordance with the  
5 provisions of chapter 163, Laws of 1917 as amended.

6       (15) "Member" means any teacher included in the membership of the  
7 retirement system. Also, any other employee of the public schools who,  
8 on July 1, 1947, had not elected to be exempt from membership and who,  
9 prior to that date, had by an authorized payroll deduction, contributed  
10 to the member reserve.

11       (16) "Membership service" means service rendered subsequent to the  
12 first day of eligibility of a person to membership in the retirement  
13 system: PROVIDED, That where a member is employed by two or more  
14 employers the individual shall receive no more than one service credit  
15 month during any calendar month in which multiple service is rendered.  
16 The provisions of this subsection shall apply only to plan 1 members.

17       (17) "Pension" means the moneys payable per year during life from  
18 the pension reserve.

19       (18) "Pension reserve" is a fund in which shall be accumulated an  
20 actuarial reserve adequate to meet present and future pension  
21 liabilities of the system and from which all pension obligations are to  
22 be paid.

23       (19) "Prior service" means service rendered prior to the first date  
24 of eligibility to membership in the retirement system for which credit  
25 is allowable. The provisions of this subsection shall apply only to  
26 plan 1 members.

27       (20) "Prior service contributions" means contributions made by a  
28 member to secure credit for prior service. The provisions of this  
29 subsection shall apply only to plan 1 members.

30       (21) "Public school" means any institution or activity operated by  
31 the state of Washington or any instrumentality or political subdivision  
32 thereof employing teachers, except the University of Washington and  
33 Washington State University.

34       (22) "Regular contributions" means the amounts required to be  
35 deducted from the compensation of a member and credited to the member's  
36 individual account in the member reserve. This subsection shall apply  
37 only to plan 1 members.

1 (23) "Regular interest" means such rate as the director may  
2 determine.

3 (24)(a) "Retirement allowance" for plan 1 members, means monthly  
4 payments based on the sum of annuity and pension, or any optional  
5 benefits payable in lieu thereof.

6 (b) "Retirement allowance" for plan 2 and plan 3 members, means  
7 monthly payments to a retiree or beneficiary as provided in this  
8 chapter.

9 (25) "Retirement system" means the Washington state teachers'  
10 retirement system.

11 (26)(a) "Service" for plan 1 members means the time during which a  
12 member has been employed by an employer for compensation.

13 (i) If a member is employed by two or more employers the individual  
14 shall receive no more than one service credit month during any calendar  
15 month in which multiple service is rendered.

16 (ii) As authorized by RCW 28A.400.300, up to forty-five days of  
17 sick leave may be creditable as service solely for the purpose of  
18 determining eligibility to retire under RCW 41.32.470.

19 (iii) As authorized in RCW 41.32.065, service earned in an out-of-  
20 state retirement system that covers teachers in public schools may be  
21 applied solely for the purpose of determining eligibility to retire  
22 under RCW 41.32.470.

23 (b) "Service" for plan 2 and plan 3 members, means periods of  
24 employment by a member for one or more employers for which earnable  
25 compensation is earned subject to the following conditions:

26 (i) A member employed in an eligible position or as a substitute  
27 shall receive one service credit month for each month of September  
28 through August of the following year if he or she earns earnable  
29 compensation for eight hundred ten or more hours during that period and  
30 is employed during nine of those months, except that a member may not  
31 receive credit for any period prior to the member's employment in an  
32 eligible position except as provided in RCW 41.32.812 and 41.50.132;

33 (ii) If a member is employed either in an eligible position or as  
34 a substitute teacher for nine months of the twelve month period between  
35 September through August of the following year but earns earnable  
36 compensation for less than eight hundred ten hours but for at least six  
37 hundred thirty hours, he or she will receive one-half of a service  
38 credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours((~~-~~));

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions((~~-~~));

(v) Any person who is a member of the teachers' retirement system plan 2 or plan 3 and who is elected or appointed to a state elective position has the option during a ninety-day period at the beginning of each term of office either to resume membership or to end membership in the retirement system and if otherwise eligible begin their retirement allowance. A state elected official who chooses to end membership at the beginning of a term of office and begin their retirement allowance shall neither make contributions nor earn service credit for the duration of that term;

(vi) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered((~~-~~));

((~~(vi)~~)) (vii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;  
(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month; and

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month(~~(-)~~);

~~((vii))~~ (viii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470(~~(-)~~);

~~((viii))~~ (ix) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

1 (35) "State actuary" or "actuary" means the person appointed  
2 pursuant to RCW 44.44.010(2).

3 (36) "Substitute teacher" means:

4 (a) A teacher who is hired by an employer to work as a temporary  
5 teacher, except for teachers who are annual contract employees of an  
6 employer and are guaranteed a minimum number of hours; or

7 (b) Teachers who either (i) work in ineligible positions for more  
8 than one employer or (ii) work in an ineligible position or positions  
9 together with an eligible position.

10 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,  
11 through September 1, 1991, means a position which normally requires two  
12 or more uninterrupted months of creditable service during September  
13 through August of the following year.

14 (b) "Eligible position" for plan 2 and plan 3 on and after  
15 September 1, 1991, means a position that, as defined by the employer,  
16 normally requires five or more months of at least seventy hours of  
17 earnable compensation during September through August of the following  
18 year.

19 (c) For purposes of this chapter an employer shall not define  
20 "position" in such a manner that an employee's monthly work for that  
21 employer is divided into more than one position.

22 (d) The elected position of the superintendent of public  
23 instruction is an eligible position.

24 (38) "Plan 1" means the teachers' retirement system, plan 1  
25 providing the benefits and funding provisions covering persons who  
26 first became members of the system prior to October 1, 1977.

27 (39) "Plan 2" means the teachers' retirement system, plan 2  
28 providing the benefits and funding provisions covering persons who  
29 first became members of the system on and after October 1, 1977, and  
30 prior to July 1, 1996.

31 (40) "Plan 3" means the teachers' retirement system, plan 3  
32 providing the benefits and funding provisions covering persons who  
33 first become members of the system on and after July 1, 1996, or who  
34 transfer under RCW 41.32.817.

35 (41) "Index" means, for any calendar year, that year's annual  
36 average consumer price index, Seattle, Washington area, for urban wage  
37 earners and clerical workers, all items compiled by the bureau of labor  
38 statistics, United States department of labor.

1 (42) "Index A" means the index for the year prior to the  
2 determination of a postretirement adjustment.

3 (43) "Index B" means the index for the year prior to index A.

4 (44) "Index year" means the earliest calendar year in which the  
5 index is more than sixty percent of index A.

6 (45) "Adjustment ratio" means the value of index A divided by index  
7 B.

8 (46) "Annual increase" means, initially, fifty-nine cents per month  
9 per year of service which amount shall be increased each July 1st by  
10 three percent, rounded to the nearest cent.

11 (47) "Member account" or "member's account" for purposes of plan 3  
12 means the sum of the contributions and earnings on behalf of the member  
13 in the defined contribution portion of plan 3.

14 (48) "Separation from service or employment" occurs when a person  
15 has terminated all employment with an employer.

16 (49) "Employed" or "employee" means a person who is providing  
17 services for compensation to an employer, unless the person is free  
18 from the employer's direction and control over the performance of work.  
19 The department shall adopt rules and interpret this subsection  
20 consistent with common law.

21 **Sec. 3.** RCW 41.32.263 and 1991 c 35 s 41 are each amended to read  
22 as follows:

23 A member of the retirement system who is a member of the state  
24 legislature or a state official eligible for the combined pension and  
25 annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter  
26 amended shall have deductions taken from his or her salary in the  
27 amount of seven and one-half percent of earnable compensation and that  
28 service credit shall be established with the retirement system while  
29 such deductions are reported to the retirement system, unless he or she  
30 has by reason of his or her employment become a contributing member of  
31 another public retirement system in the state of Washington. Such  
32 elected official who has retired or otherwise terminated his or her  
33 public school service may then elect to terminate his or her membership  
34 in the retirement system and receive retirement benefits while  
35 continuing to serve as an elected official. A member of the retirement  
36 system who had previous service as an elected or appointed official,  
37 for which he or she did not contribute to the retirement system, may



1 receive credit for such legislative service unless he or she has  
2 received credit for that service in another state retirement system,  
3 upon making contributions in such amounts as shall be determined by the  
4 (~~board of trustees~~) director.

5       **Sec. 4.** RCW 41.35.030 and 2003 c 157 s 2 are each amended to read  
6 as follows:

7       Membership in the retirement system shall consist of all regularly  
8 compensated classified employees and appointive and elective officials  
9 of employers, as defined in this chapter, with the following  
10 exceptions:

11       (1) Persons in ineligible positions;

12       (2)(a) Persons holding elective offices or persons appointed  
13 directly by the governor: PROVIDED, That such persons shall have the  
14 option of applying for membership during such periods of employment:  
15 AND PROVIDED FURTHER, That any persons holding or who have held  
16 elective offices or persons appointed by the governor who are members  
17 in the retirement system and who have, prior to becoming such members,  
18 previously held an elective office, and did not at the start of such  
19 initial or successive terms of office exercise their option to become  
20 members, may apply for membership to be effective during such term or  
21 terms of office, and shall be allowed to establish the service credit  
22 applicable to such term or terms of office upon payment of the employee  
23 contributions therefor by the employee with interest as determined by  
24 the director and employer contributions therefor by the employer or  
25 employee with interest as determined by the director: AND PROVIDED  
26 FURTHER, That all contributions with interest submitted by the employee  
27 under this subsection shall be placed in the employee's individual  
28 account in the employee's savings fund and be treated as any other  
29 contribution made by the employee, with the exception that any  
30 contributions submitted by the employee in payment of the employer's  
31 obligation, together with the interest the director may apply to the  
32 employer's contribution, shall not be considered part of the member's  
33 annuity for any purpose except withdrawal of contributions;

34       (b) A member holding elective office who has elected to apply for  
35 membership pursuant to (a) of this subsection and who later wishes to  
36 be eligible for a retirement allowance shall have the option of ending  
37 his or her membership in the retirement system. A member wishing to

1 end his or her membership under this subsection must file on a form  
2 supplied by the department a statement indicating that the member  
3 agrees to irrevocably abandon any claim for service for future periods  
4 served as an elected official. Except for members in state elective  
5 positions, a member who receives more than fifteen thousand dollars per  
6 year in compensation for his or her elective service, adjusted annually  
7 for inflation by the director, is not eligible for the option provided  
8 by this subsection (2)(b). A member in a state elective position may  
9 apply to end his or her membership and be eligible for a retirement  
10 allowance during a ninety-day period at the beginning of each term of  
11 office regardless of the compensation they receive for elective  
12 service;

13 (3) Retirement system retirees: PROVIDED, That following  
14 reemployment in an eligible position, a retiree may elect to  
15 prospectively become a member of the retirement system if otherwise  
16 eligible;

17 (4) Persons enrolled in state-approved apprenticeship programs,  
18 authorized under chapter 49.04 RCW, and who are employed by employers  
19 to earn hours to complete such apprenticeship programs, if the employee  
20 is a member of a union-sponsored retirement plan and is making  
21 contributions to such a retirement plan or if the employee is a member  
22 of a Taft-Hartley retirement plan;

23 (5) Persons rendering professional services to an employer on a  
24 fee, retainer, or contract basis or when the income from these services  
25 is less than fifty percent of the gross income received from the  
26 person's practice of a profession;

27 (6) Substitute employees, except for the purposes of the purchase  
28 of service credit under rcw 41.35.033. Upon the return or termination  
29 of the absent employee a substitute employee is replacing, that  
30 substitute employee shall no longer be ineligible under this  
31 subsection;

32 (7) Employees who (a) are not citizens of the United States, (b) do  
33 not reside in the United States, and (c) perform duties outside of the  
34 United States;

35 (8) Employees who (a) are not citizens of the United States, (b)  
36 are not covered by chapter 41.48 RCW, (c) are not excluded from  
37 membership under this chapter or chapter 41.04 RCW, (d) are residents

1 of this state, and (e) make an irrevocable election to be excluded from  
2 membership, in writing, which is submitted to the director within  
3 thirty days after employment in an eligible position;

4 (9) Employees who are citizens of the United States and who reside  
5 and perform duties for an employer outside of the United States:  
6 PROVIDED, That unless otherwise excluded under this chapter or chapter  
7 41.04 RCW, the employee may apply for membership (a) within thirty days  
8 after employment in an eligible position and membership service credit  
9 shall be granted from the first day of membership service, and (b)  
10 after this thirty-day period, but membership service credit shall be  
11 granted only if payment is made for the noncredited membership service  
12 under RCW 41.50.165(2), otherwise service shall be from the date of  
13 application.

14 **Sec. 5.** RCW 41.40.023 and 2001 c 37 s 1 are each amended to read  
15 as follows:

16 Membership in the retirement system shall consist of all regularly  
17 compensated employees and appointive and elective officials of  
18 employers, as defined in this chapter, with the following exceptions:

19 (1) Persons in ineligible positions;

20 (2) Employees of the legislature except the officers thereof  
21 elected by the members of the senate and the house and legislative  
22 committees, unless membership of such employees be authorized by the  
23 said committee;

24 (3)(a) Persons holding elective offices or persons appointed  
25 directly by the governor: PROVIDED, That such persons shall have the  
26 option of applying for membership during such periods of employment:  
27 AND PROVIDED FURTHER, That any persons holding or who have held  
28 elective offices or persons appointed by the governor who are members  
29 in the retirement system and who have, prior to becoming such members,  
30 previously held an elective office, and did not at the start of such  
31 initial or successive terms of office exercise their option to become  
32 members, may apply for membership to be effective during such term or  
33 terms of office, and shall be allowed to establish the service credit  
34 applicable to such term or terms of office upon payment of the employee  
35 contributions therefor by the employee with interest as determined by  
36 the director and employer contributions therefor by the employer or  
37 employee with interest as determined by the director: AND PROVIDED

1 FURTHER, That all contributions with interest submitted by the employee  
2 under this subsection shall be placed in the employee's individual  
3 account in the employee's savings fund and be treated as any other  
4 contribution made by the employee, with the exception that any  
5 contributions submitted by the employee in payment of the employer's  
6 obligation, together with the interest the director may apply to the  
7 employer's contribution, shall not be considered part of the member's  
8 annuity for any purpose except withdrawal of contributions;

9 (b) A member holding elective office who has elected to apply for  
10 membership pursuant to (a) of this subsection and who later wishes to  
11 be eligible for a retirement allowance shall have the option of ending  
12 his or her membership in the retirement system. A member wishing to  
13 end his or her membership under this subsection must file, on a form  
14 supplied by the department, a statement indicating that the member  
15 agrees to irrevocably abandon any claim for service for future periods  
16 served as an elected official. Except for members in state elective  
17 positions, a member who receives more than fifteen thousand dollars per  
18 year in compensation for his or her elective service, adjusted annually  
19 for inflation by the director, is not eligible for the option provided  
20 by this subsection (3)(b). A member in a state elective position may  
21 apply to end his or her membership and be eligible for a retirement  
22 allowance during a ninety-day period at the beginning of each term of  
23 office regardless of the compensation they receive for elective  
24 service;

25 (4) Employees holding membership in, or receiving pension benefits  
26 under, any retirement plan operated wholly or in part by an agency of  
27 the state or political subdivision thereof, or who are by reason of  
28 their current employment contributing to or otherwise establishing the  
29 right to receive benefits from any such retirement plan except as  
30 follows:

31 (a) In any case where the retirement system has in existence an  
32 agreement with another retirement system in connection with exchange of  
33 service credit or an agreement whereby members can retain service  
34 credit in more than one system, such an employee shall be allowed  
35 membership rights should the agreement so provide;

36 (b) An employee shall be allowed membership if otherwise eligible  
37 while receiving survivor's benefits;

1 (c) An employee shall not either before or after June 7, 1984, be  
2 excluded from membership or denied service credit pursuant to this  
3 subsection solely on account of: (i) Membership in the plan created  
4 under chapter 2.14 RCW; or (ii) enrollment under the relief and  
5 compensation provisions or the pension provisions of the volunteer fire  
6 fighters' relief and pension fund under chapter 41.24 RCW;

7 (d) Except as provided in RCW 41.40.109, on or after July 25, 1999,  
8 an employee shall not be excluded from membership or denied service  
9 credit pursuant to this subsection solely on account of participation  
10 in a defined contribution pension plan qualified under section 401 of  
11 the internal revenue code;

12 (e) Employees who have been reported in the retirement system prior  
13 to July 25, 1999, and who participated during the same period of time  
14 in a defined contribution pension plan qualified under section 401 of  
15 the internal revenue code and operated wholly or in part by the  
16 employer, shall not be excluded from previous retirement system  
17 membership and service credit on account of such participation;

18 (5) Patient and inmate help in state charitable, penal, and  
19 correctional institutions;

20 (6) "Members" of a state veterans' home or state soldiers' home;

21 (7) Persons employed by an institution of higher learning or  
22 community college, primarily as an incident to and in furtherance of  
23 their education or training, or the education or training of a spouse;

24 (8) Employees of an institution of higher learning or community  
25 college during the period of service necessary to establish eligibility  
26 for membership in the retirement plans operated by such institutions;

27 (9) Persons rendering professional services to an employer on a  
28 fee, retainer, or contract basis or when the income from these services  
29 is less than fifty percent of the gross income received from the  
30 person's practice of a profession;

31 (10) Persons appointed after April 1, 1963, by the liquor control  
32 board as agency vendors;

33 (11) Employees of a labor guild, association, or organization:  
34 PROVIDED, That elective officials and employees of a labor guild,  
35 association, or organization which qualifies as an employer within this  
36 chapter shall have the option of applying for membership;

37 (12) Retirement system retirees: PROVIDED, That following

1 reemployment in an eligible position, a retiree may elect to  
2 prospectively become a member of the retirement system if otherwise  
3 eligible;

4 (13) Persons employed by or appointed or elected as an official of  
5 a first class city that has its own retirement system: PROVIDED, That  
6 any member elected or appointed to an elective office on or after April  
7 1, 1971, shall have the option of continuing as a member of this system  
8 in lieu of becoming a member of the city system. A member who elects  
9 to continue as a member of this system shall pay the appropriate member  
10 contributions and the city shall pay the employer contributions at the  
11 rates prescribed by this chapter. The city shall also transfer to this  
12 system all of such member's accumulated contributions together with  
13 such further amounts as necessary to equal all employee and employer  
14 contributions which would have been paid into this system on account of  
15 such service with the city and thereupon the member shall be granted  
16 credit for all such service. Any city that becomes an employer as  
17 defined in RCW 41.40.010(4) as the result of an individual's election  
18 under this subsection shall not be required to have all employees  
19 covered for retirement under the provisions of this chapter. Nothing  
20 in this subsection shall prohibit a city of the first class with its  
21 own retirement system from: (a) Transferring all of its current  
22 employees to the retirement system established under this chapter, or  
23 (b) allowing newly hired employees the option of continuing coverage  
24 under the retirement system established by this chapter.

25 Notwithstanding any other provision of this chapter, persons  
26 transferring from employment with a first class city of over four  
27 hundred thousand population that has its own retirement system to  
28 employment with the state department of agriculture may elect to remain  
29 within the retirement system of such city and the state shall pay the  
30 employer contributions for such persons at like rates as prescribed for  
31 employers of other members of such system;

32 (14) Employees who (a) are not citizens of the United States, (b)  
33 do not reside in the United States, and (c) perform duties outside of  
34 the United States;

35 (15) Employees who (a) are not citizens of the United States, (b)  
36 are not covered by chapter 41.48 RCW, (c) are not excluded from  
37 membership under this chapter or chapter 41.04 RCW, (d) are residents

1 of this state, and (e) make an irrevocable election to be excluded from  
2 membership, in writing, which is submitted to the director within  
3 thirty days after employment in an eligible position;

4 (16) Employees who are citizens of the United States and who reside  
5 and perform duties for an employer outside of the United States:  
6 PROVIDED, That unless otherwise excluded under this chapter or chapter  
7 41.04 RCW, the employee may apply for membership (a) within thirty days  
8 after employment in an eligible position and membership service credit  
9 shall be granted from the first day of membership service, and (b)  
10 after this thirty-day period, but membership service credit shall be  
11 granted only if payment is made for the noncredited membership service  
12 under RCW 41.50.165(2), otherwise service shall be from the date of  
13 application;

14 (17) The city manager or chief administrative officer of a city or  
15 town, other than a retiree, who serves at the pleasure of an appointing  
16 authority: PROVIDED, That such persons shall have the option of  
17 applying for membership within thirty days from date of their  
18 appointment to such positions. Persons serving in such positions as of  
19 April 4, 1986, shall continue to be members in the retirement system  
20 unless they notify the director in writing prior to December 31, 1986,  
21 of their desire to withdraw from membership in the retirement system.  
22 A member who withdraws from membership in the system under this section  
23 shall receive a refund of the member's accumulated contributions.

24 Persons serving in such positions who have not opted for membership  
25 within the specified thirty days, may do so by paying the amount  
26 required under RCW 41.50.165(2) for the period from the date of their  
27 appointment to the date of acceptance into membership;

28 (18) Persons serving as: (a) The chief administrative officer of  
29 a public utility district as defined in RCW 54.16.100; (b) the chief  
30 administrative officer of a port district formed under chapter 53.04  
31 RCW; or (c) the chief administrative officer of a county who serves at  
32 the pleasure of an appointing authority: PROVIDED, That such persons  
33 shall have the option of applying for membership within thirty days  
34 from the date of their appointment to such positions. Persons serving  
35 in such positions as of July 25, 1999, shall continue to be members in  
36 the retirement system unless they notify the director in writing prior  
37 to December 31, 1999, of their desire to withdraw from membership in  
38 the retirement system. A member who withdraws from membership in the

1 system under this section shall receive a refund of the member's  
2 accumulated contributions upon termination of employment or as  
3 otherwise consistent with the plan's tax qualification status as  
4 defined in internal revenue code section 401.

5 Persons serving in such positions who have not opted for membership  
6 within the specified thirty days, may do so at a later date by paying  
7 the amount required under RCW 41.50.165(2) for the period from the date  
8 of their appointment to the date of acceptance into membership;

9 (19) Persons enrolled in state-approved apprenticeship programs,  
10 authorized under chapter 49.04 RCW, and who are employed by local  
11 governments to earn hours to complete such apprenticeship programs, if  
12 the employee is a member of a union-sponsored retirement plan and is  
13 making contributions to such a retirement plan or if the employee is a  
14 member of a Taft-Hartley retirement plan;

15 (20) Beginning on July 22, 2001, persons employed exclusively as  
16 trainers or trainees in resident apprentice training programs operated  
17 by housing authorities authorized under chapter 35.82 RCW, (a) if the  
18 trainer or trainee is a member of a union-sponsored retirement plan and  
19 is making contributions to such a retirement plan or (b) if the  
20 employee is a member of a Taft-Hartley retirement plan.

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